

STATE OF MICHIGAN  
COURT OF APPEALS

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LEWIS STORNELLO and TINA STORNELLO,

Plaintiffs-Appellants,

v

MERIDIAN MUTUAL INSURANCE  
COMPANY,

Defendant-Appellee.

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UNPUBLISHED  
September 17, 2002

No. 229970  
Genesee Circuit Court  
LC No. 99-065512-CK

Before: Meter, P.J., and Saad and R.B. Burns\*, JJ.

PER CURIAM.

Plaintiffs appeal as of right from the trial court's order denying their motion for a new trial. We affirm.

Plaintiffs argue that the trial court abused its discretion in refusing to grant their untimely request for a jury trial. Plaintiffs say that a jury trial is warranted because the trial court prejudged the case in defendant's favor. We disagree.

The decision whether to grant plaintiffs' request for a jury trial is within the discretion of the trial court. MCR 2.509(B). Here, notwithstanding plaintiffs' claim to the contrary, the record does not indicate that the trial court prejudged this case. Therefore, plaintiffs have not shown that the trial court abused its discretion in denying their request for a jury trial.

Also, plaintiffs assert that the trial court erred in considering the testimony of defendant's financial expert, and in excluding certain evidence of loss of earnings after the fire. We review the trial court's evidentiary decisions for an abuse of discretion. *Ellsworth v Hotel Corp of America*, 236 Mich App 185, 188; 600 NW2d 129 (1999); *Phillips v Deihm*, 213 Mich app 389, 401; 541 NW2d 566 (1995).

If the court determines that recognized technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, the court may admit expert testimony. MRE 702. The critical inquiry is whether the expert testimony will aid the factfinder in making the ultimate decision in the case. *People v Coy*, 243 Mich App 283, 294-295; 620 NW2d 888 (2000). Here, the testimony of defendant's expert assisted the court in

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\* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

understanding plaintiffs' financial situation, a fact that was relevant to the issue of motive for arson. Though defendant's expert failed to consider all information in arriving at his conclusions, plaintiffs identified these alleged deficiencies and how they affected the witness' testimony and conclusions. The trial court did not abuse its discretion in allowing the testimony. Furthermore, the trial court properly excluded as speculative testimony concerning plaintiffs' loss of earnings after the fire.

Finally, plaintiffs allege that a new trial should have been granted because the verdict was against the great weight of the evidence. A motion for a new trial may be granted when the verdict is against the overwhelming weight of the evidence. A trial court's decision with regard to such a motion will not be reversed absent an abuse of discretion. *Rice v ISI Manufacturing, Inc.*, 207 Mich App 634, 637; 525 NW2d 533 (1994). Here, the trial court relied on evidence that the fire was intentionally set, that Lewis Stornello was the person most likely to have set it, and that plaintiffs were having financial difficulties before the fire. The trial court, as the trier of fact, clearly did not abuse its discretion in denying plaintiffs' motion for a new trial.

Affirmed.

/s/ Patrick M. Meter  
/s/ Henry William Saad  
/s/ Robert B. Burns